

**DURHAM, NORTH CAROLINA  
MONDAY, JUNE 18, 2001  
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Absent: None.

Also present: City Manager Marcia L. Conner, City Attorney Henry Blinder, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Tennyson called the meeting to order and at that time, the Mayor recognized Terry McCabe, of the Human Relations Commission. Mr. McCabe announced that the Human Relations Forum, "Building our Community - Supporting All Citizens", will be held Wednesday, June 20, 2001 at Hillside High School.

Mayor Pro Tempore Clement congratulated Gina UpChurch, with Senior Pharmacist, for being awarded \$100,000 grant from the Robert Wood Johnson Foundation. Ms. Gina UpChurch made comments noting it's a real honor to win this award.

Council Member Wagstaff presented certificates to Kimberly Rogers, Curtis Cotton and Damien Lee congratulating them for their participation in the George Washington movie featured at the Carolina Theater. Mr. Cotton and Mr. Lee thanked everyone who supported them.

Council Member Jacobs commented on her participation at the National's Council of Negro Women's Awards Luncheon.

Mayor Pro Tempore Clement congratulated the Durham Housing Authority for their Annual Recognition Banquet.

Mayor Tennyson reminded his colleagues that the Community Response Forum is scheduled for Thursday, June 28<sup>th</sup> at 6 p.m. in the Council Chambers.

Mayor Tennyson asked for priority items from the City Manager, City Attorney and City Clerk. City Manager Marcia Conner updated Council on the Historic Tax Credits noting that the House Appropriations Subcommittee will meet this week and it's real important to keep tax credits for the re-development of downtown for projects such as American Tobacco and Liggett. She noted that staff has drafted a letter for the Mayor's signature to be forwarded to the Durham Delegation, members of the House Appropriations and House Finance Committees and requested Council approval to move forward on this matter.

**SUBJECT: HISTORIC TAX CREDITS**

**MOTION** by Council Member Larson seconded by Mayor Pro Tempore Clement to authorize the Mayor to sign a letter on behalf of City

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Council concerning Historic Tax Credits was approved at 7:15 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

Relative to the Greater NECD Planning Initiative [Hope VI, Eagle Village Development by NCCU, Transit Station Area Development by Triangle Transit Authority & City of Durham's Revitalization Improvements], City Manager Marcia Conner reported that the group asked that the City take the lead rather than TTA in terms of coordination of all these projects. She noted if it's the desire of the Council that the City would accept that responsibility to assist with the coordination in taking the lead regarding the NECD initiative and would be establishing an Inter-Departmental Task Force to look at the issues and areas that are there. Also, she noted that the City should hold up any other projects that have already started and will bring an item back to Council for approval regarding the City being the lead agency regarding the NECD initiative.

City Attorney Henry Blinder requested a closed session after the regular meeting of Council concerning a personnel matter.

**SUBJECT: CLOSED SESSION - PERSONNEL MATTER**

**MOTION** by Council Member Larson seconded by Council Member Jacobs to go into closed session after the regular City Council Meeting concerning a personnel matter was approved at 7:16 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

City Clerk D. Ann Gray informed Council that the protest petition filed against GBA #9 [P01-04 - RENAISSANCE CENTER DEVELOPMENT COMPANY, LLC] has been ruled insufficient.

Mayor Tennyson asked if any citizen(s) or council member(s) wanted to pull any item(s) from the Consent Agenda for discussion later in the meeting.

Mr. Dave Slade, of 4901 Vistawood Way, pulled Consent Agenda Item#10 [SITE PLAN APPROVAL - THE VILLAGES AT HOPE VALLEY FARMS, PODS NN & X].

**MOTION** by Council Member Larson seconded by Council Member Jacobs to approve the Consent Agenda as amended was approved at 7:18 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**[CONSENT AGENDA]**

**SUBJECT: REPORT ON THE MINORITY AND WOMEN BUSINESS ENTERPRISE**

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**ORDINANCE**

**MOTION** by Council Member Larson seconded by Council Member Jacobs to receive a report from the Minority and Women Business Enterprise Advisory Committee on proposed changes to the M/WBE Ordinance and its implementation was approved at 7:18 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**SUBJECT: REPLACEMENT OF OBSOLETE PRODUCTION OPERATION PRINTERS - XEROX CORPORATION**

**MOTION** by Council Member Larson seconded by Council Member Jacobs to authorize the City Manager to execute a lease with Xerox Corporation to replace production printers in the City's computer room was approved at 7:18 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**SUBJECT: WORKFORCE INVESTMENT ACT YOUTH PROGRAM**

**MOTION** by Council Member Larson seconded by Council Member Jacobs to authorize the City Manager to execute the "Agreement to Amend Contract for Youth Program"--to extend the program from June 30, 2001 through December 31, 2001 was approved at 7:18 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**SUBJECT: WATER AND SEWER REVENUE BONDS, SERIES 2001**

**MOTION** by Council Member Larson seconded by Council Member Jacobs to authorize the issuance of Water and Sewer Utility Revenue Bonds, and to adopt the "Series Resolution Providing for the Issuance of Not to Exceed \$22,000,000 Water and Sewer Utility System Revenue Bonds, Series 2001" was approved at 7:18 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**Resolution #8785**

**SUBJECT: UNITED DURHAM INCORPORATED (UDI) COMMUNITY DEVELOPMENT CORPORATION (CDC) SUBRECIPIENT AGREEMENT**

**MOTION** by Council Member Larson seconded by Council Member Jacobs to authorize the City Manager to execute a Subrecipient Agreement

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with United Durham Incorporated (UDI) Community Development Corporation (CDC) in an amount not to exceed \$150,000 to convert a portion of UDI's commercial building into a small business incubator; and

To authorize the City Manager to modify the Subrecipient Agreement before execution provided the modifications do not increase the dollar amount of the Subrecipient Agreement and are consistent with the general intent of the version of the Subrecipient Agreement approved by the City Council was approved at 7:18 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**SUBJECT: HOUSING APPEALS BOARD - APPOINTMENTS**

**MOTION** by Council Member Larson seconded by Council Member Jacobs to appoint **Michael William Shiflett**, Regular Member (representing Neighborhood Association); **Anita Hammond**, Alternate Member (representing At-Large); and **Anthony D. Nicholson**, Alternate Member (representing Law) to the Housing Appeals Board for three-year terms to expire June 30, 2004 was approved at 7:18 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**SUBJECT: DURHAM PLANNING COMMISSION - APPOINTMENT**

**MOTION** by Council Member Larson seconded by Council Member Jacobs to appoint **Todd Carlton Patton**, representing District 1, to the Durham Planning Commission for three-year terms to expire June 30, 2004 was approved at 7:18 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**SUBJECT: PROGRESS REPORT ON DURHAM CENTRAL PARK**

**MOTION** by Council Member Larson seconded by Council Member Jacobs to receive a progress report on the Durham Central Park was approved at 7:18 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**SUBJECT: STATUS REPORT - SIGNAL SYSTEM UPGRADE PROJECT**

**MOTION** by Council Member Larson seconded by Council Member Jacobs to receive a report from the Administration concerning the status of pedestrian improvements associated with the Signal System

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Upgrade Project was approved at 7:18 p.m. by the following vote:  
Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**SUBJECT: SITE PLAN APPROVAL - CINTAS FACILITY**

**MOTION** by Council Member Larson seconded by Council Member Jacobs to approve a site plan for the Cintas Facility, submitted by Barbara H. Mulkey Engineering, Inc., on behalf of the Cintas Corporation No. 1, consisting of a 53,654 square foot commercial uniform supply facility proposed on 5.54 acres, zoned Light Industrial (I-2), and located on Twin Creeks Court, east of Stirrup Creek and south of the Southern Parkway (Tax Map #577-04-001F, PIN #0748-02-78-6990, and City Atlas Page 45, C-2) was approved at 7:18 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**SUBJECT: SITE PLAN APPROVAL - 1200 EXCHANGE PLACE**

**MOTION** by Council Member Larson seconded by Council Member Jacobs to approve a site plan for 1200 Exchange Place, submitted by The John R. McAdams Company, Inc., on behalf of CMD Realty Investors, Inc., consisting of a 72,000 square foot office building proposed on 25.78 acres, zoned Light Industrial (I-2) and located on the south side of Exchange Place, north of I-40 and south of Meridian Parkway (Tax Maps 548-01-037 and 17G, PIN #0728-02-85-1919 and #7028-02-75-4958 and City Atlas Page 43, D-1) was approved at 7:18 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**SUBJECT: SITE PLAN/PRELIMINARY PLAT APPROVAL - HUNTINGTON RIDGE**

**MOTION** by Council Member Larson seconded by Council Member Jacobs to approve a site plan/preliminary plat for Huntington Ridge, submitted by Tony M. Tate, Landscape Architecture, P.A., on behalf of JLG Corporation, consisting of 71 single family lots and open space on a ±29.83 acre site, zoned PDR 2.38 and F/J-B, located on west of Fayetteville Road and south of Massey Chapel Road (Tax Map #529-01-016 and 016B; PIN #0717-01-49-01591 and #0717-02-59-8768; City Atlas Page 49, B-2 and C-2) was approved at 7:18 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**SUBJECT: THREE-PARTY AGREEMENT FOR THE DEVELOPMENT OF A CITY-COUNTY UNIFIED DEVELOPMENT ORDINANCE (UDO) - COUNTY OF**

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**DURHAM, CITY OF DURHAM, AND DUNCAN AND ASSOCIATES**

**MOTION** by Council Member Larson seconded by Council Member Jacobs to authorize the City Manager to execute a Three-Party Agreement among the County of Durham, City of Durham, and Duncan and Associates in the amount of \$189,500 for the development of a Unified Development (UDO) Ordinance--to be funded jointly by the City and County over two fiscal years was approved at 7:18 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**SUBJECT: DURHAM CITY-COUNTY PLANNING DEPARTMENTAL WORK PROGRAM**

**MOTION** by Council Member Larson seconded by Council Member Jacobs to approve the FY 2001-2002 Work Program for the Durham City-County Planning Department was approved at 7:18 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

Joint City/County Committee's Recommendation: Approval

Planning Committee's Recommendation: Approval

**SUBJECT: ARCHITECT'S CONTRACT FOR POLICE HEADQUARTERS SPACE NEEDS AND SCHEMATIC MASTER PLAN - NEW SYNERGY, INC.**

**MOTION** by Council Member Larson seconded by Council Member Jacobs to authorize the City Manager to execute a contract with New Synergy, Inc. in an amount not to exceed \$60,000 to provide a Space Needs Study and Schematic Master Plan for the Police Department Headquarters Building; and

To authorize the City Manager to make changes to the contract before execution provided the changes do not increase the dollar amount of the contract and do not decrease the goods and services to be provided to the City; and

To authorize a contingency fund for the Space Needs Study and Schematic Design of a Master Plan for the Police Department Headquarters Building project in the amount of \$10,000; and

To authorize the City Manager to negotiate and execute amendments to the contract with New Synergy, Inc. provided the total cost of all amendments does not exceed \$10,000 was approved at 7:18 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

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**SUBJECT: CONTRACT AMENDMENTS FOR CITY HALL BASEMENT PROJECT - COMFORT ENGINEER, PENDERGRAPH ELECTRIC, INC., EAKINS PLUMBING, NEW SYNERGY, INC. AND EI CONSTRUCTION SERVICES, INC.**

**MOTION** by Council Member Larson seconded by Council Member Jacobs to authorize the City Manager to execute a contract amendment increasing the Comfort Engineer contract by \$54,535.56, from \$605,935 to \$659,970; and

To authorize the City Manager to execute a contract amendment increasing the Pendergraph Electric, Inc. contract by \$14,267.54, from \$178,865 to \$193,132.54; and

To authorize the City Manager to execute a contract amendment increasing the Eakins Plumbing contract by \$1,719.98, from \$82,605.78 to \$84,325.76; and

To authorize the City Manager to execute a contract amendment increasing the New Synergy, Inc. contract by \$19,940, from \$182,500 to \$202,440; and

To authorize the City Manager to execute a contract amendment increasing EI Construction Services, Inc. contract by \$36,525.41, from \$1,126,381.91 to \$1,162,907.32; and

To authorize the City Manager to negotiate and execute change orders on the City Hall Basement project provided the cost of all change orders does not exceed \$19,000 and the total project cost does not exceed \$2,660,893 was approved at 7:18 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**SUBJECT: STATE BUDGET CHANGE AFFECTING PLANS TO WIDEN THE BRIDGE AT NC 54**

**MOTION** by Council Member Larson seconded by Council Member Jacobs to authorize the Mayor, on behalf of the Durham City Council, to send a letter to members of the General Assembly who represent Durham urging that they not approve the Senate's version of the budget redirecting \$19 million from NC Railroad to the State's General Fund, emphasizing that \$7 million of the money was planned for replacing the substandard bridge on NC 54 which is a necessary first step before widening NC 54 between Davis Drive and Miami Boulevard was approved at 7:18 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**SUBJECT: BID - SALE OF SURPLUS CITY EQUIPMENT, CATERPILLAR D9N BULL DOZER - GREGORY POOLE EQUIPMENT COMPANY**

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**MOTION** by Council Member Larson seconded by Council Member Jacobs to accept the high bid from Gregory Poole Equipment Company in the amount of \$273,000 for City equipment No. 36516, Caterpillar D9N Bull Dozer was approved at 7:18 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**SUBJECT: BIDS - LANDFILL EQUIPMENT - BRIGGS CONSTRUCTION EQUIPMENT, INC.**

**MOTION** by Council Member Larson seconded by Council Member Jacobs to accept the bid from Briggs Construction Equipment, Inc. in the amount of \$92,361 for the total cost purchase of a crawler dozer (Item #1); and

To authorize the City Manager to enter into a contract with Briggs Construction Equipment, Inc. in the amount of \$92,361 for the total cost purchase of a crawler dozer; and

To accept the bid from Briggs Construction, Inc. in the amount of \$69,822 for the total cost purchase of an integrated tool carrier (Item #2); and

To authorize the City Manager to enter into a contract with Briggs Construction Equipment, Inc. in the amount of \$69,822 for the total purchase of an integrated tool carrier; and

To authorize the City Manager to modify the contracts before execution provided that modifications do not increase the dollar amount of the contract and are consistent with the general intent of the existing version of the contracts was approved at 7:18 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**SUBJECT: BID - COMBINATION SEWER FLUSH AND VACUUM TRUCK - BRUDER/SARPE, INC.**

**MOTION** by Council Member Larson seconded by Council Member Jacobs to accept the bid from Bruder/Sarpe, Inc. in the amount of \$166,700.54 for providing the City with a combination sewer flush and vacuum truck; and

To authorize the City Manager to enter into a contract with Bruder/Sarpe, Inc. in the amount of \$166,700.54 for providing the City with a combination sewer flush and vacuum truck; and

To authorize the City Manager to modify the contracts before execution provided that modifications do not increase the dollar amount of the contract and are consistent with the general intent of the existing version of the contracts was approved at 7:18 p.m.



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by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**SUBJECT: HANDICAP PARKING - LANCASTER STREET**

**MOTION** by Council Member Larson seconded by Council Member Jacobs to adopt an ordinance establishing handicap parking on the east side of Lancaster Street in the area beginning a point 109 feet north of the north curb line of West Club Boulevard, if extended, and extending for a distance of 24 feet northwardly was approved at 7:18 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**Ordinance #12307**

**SUBJECT: NO RIGHT TURN ON RED - GREEN STREET**

**MOTION** by Council Member Larson seconded by Council Member Jacobs to adopt an ordinance to prohibit right turns on red for eastbound traffic on Green Street turning southbound onto Buchanan Boulevard was approved at 7:18 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**Ordinance #12308**

**SUBJECT: STOP SIGNS - COPPER CREEK SUBDIVISION**

**MOTION** by Council Member Larson seconded by Council Member Jacobs to adopt an ordinance authorizing the installation of stop signs at the following locations was approved at 7:18 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

- 1) Crimson Creek Drive at Woodcroft Parkway, southeast corner,
- 2) Red Hat Lane at Crimson Creek Drive, southwest corner,
- 3) Red Hat Lane at Copper Creek Drive, northeast corner,
- 4) Goldmist Lane at Crimson Creek Drive, southwest corner, and
- 5) Copper Creek Drive at Crimson Creek Drive, southwest corner.

**Ordinance #12309**

**SUBJECT: STOP SIGN - TALFORD AVENUE**

**MOTION** by Council Member Larson seconded by Council Member Jacobs

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to adopt an ordinance authorizing the installation of a stop sign on Talford Avenue at Wadsworth Avenue, southwest corner was approved at 7:18 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**Ordinance #12310**

**SUBJECT: TWENTY-FIVE MILE PER HOUR SPEED LIMIT - ACADIA STREET**

**MOTION** by Council Member Larson seconded by Council Member Jacobs to adopt an ordinance authorizing a speed limit of 25 mph on Acadia Street from West Markham Avenue to Brookline Street was approved at 7:18 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**Ordinance #12311**

**SUBJECT: TWENTY-FIVE MILE PER HOUR SPEED LIMIT - AUDUBON PARK SUBDIVISION**

**MOTION** by Council Member Larson seconded by Council Member Jacobs to adopt an ordinance authorizing a speed limit of 25 mph at the following locations was approved at 7:18 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

- 1) Solitude Way from Sedwick Road south to the west intersection of Piperwood Court,
- 2) Whisperwood Drive from the cul-de-sac north of Solitude Way to the cul-de-sac south of Haventree Road,
- 3) Haventree Road from Piperwood Court to Whisperwood Drive,
- 4) Rusticwood Drive from Whisperwood Drive to Haventree Road, and
- 5) Piperwood Court from the east intersection of Solitude Way to the cul-de-sac south of Haventree Road.

**Ordinance #12312**

**SUBJECT: TWENTY-FIVE MILE PER HOUR SPEED LIMIT - HILLSIDE AVENUE**

**MOTION** by Council Member Larson seconded by Council Member Jacobs to adopt an ordinance authorizing a speed limit of 25 mph on Hillside Avenue from South Roxboro Street to South Street was approved at 7:18 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

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**Ordinance #12313**

**SUBJECT: TWENTY-FIVE MILE PER HOUR SPEED LIMIT - RIDDLE HEIGHTS  
SUBDIVISION**

**MOTION** by Council Member Larson seconded by Council Member Jacobs to adopt an ordinance authorizing a speed limit of 25 mph at the following locations was approved at 7:18 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

- 1) Ancroft Avenue from Riddle Road to the west intersection with Delray Street, and
- 2) Delray Street from the east intersection with Ancroft Avenue to the west intersection with Ancroft Avenue.

**Ordinance #12314**

**SUBJECT: TWENTY-FIVE MILE PER HOUR SPEED LIMIT - SHOREHAM STREET**

**MOTION** by Council Member Larson seconded by Council Member Jacobs to adopt an ordinance authorizing a speed limit of 25 mph on Shoreham Street from University Drive to Stuart Drive was approved at 7:18 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**Ordinance #12315**

**SUBJECT: RESOLUTION HONORING COACH MIKE KRZYZEWSKI**

**MOTION** by Council Member Larson seconded by Council Member Jacobs to adopt a "Resolution Honoring Coach Mike Krzyzewski" was approved at 7:18 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**Resolution #8776**

**SUBJECT: MINUTES FOR APPROVAL - CITY CLERK'S OFFICE**

**MOTION** by Council Member Larson seconded by Council Member Jacobs to approve the official minutes of the April 16, 2001 Regular Meeting of the Durham City Council and the April 30, 2001 Joint Meeting of the Durham City Council, Durham County Board of Commissioners and Durham Public Schools Board of Education was approved at 7:18 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson,

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McKissick, Stith and Wagstaff. Noes: None. Absent: None.

Relative to Consent Agenda Item #4 [Water and Sewer Revenue Bonds, Series 2001], Finance Director Nav Gill made a disclosure statement informing Council and citizens that the documents [Series Resolution, Bond Purchase Agreement and the Preliminary Official Statement] that secured the financing are available for review.

**[GENERAL BUSINESS AGENDA]**

**[PUBLIC HEARINGS]**

**SUBJECT: WATER MAIN - FENIMORE STREET** FROM CHANDLER ROAD TO THE WEST PROPERTY LINE OF TAX MAP 387-1-64

To adopt a resolution ordering water main on Fenimore Street from Chandler Road to the west property line of Tax Map 387-1-64.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

**MOTION** by Council Member Larson seconded by Council Member Jacobs to continue the public hearing on this item until the July 16, 2001 City Council Meeting [item will be referred to the July 9, 2001 Public Works Committee Meeting] was approved at 7:18 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**SUBJECT: SEWER MAIN - EAST ROCKWAY STREET** FROM SOUTH PROPERTY LINE OF TAX MAP 740-2-5 TO NORTH PROPERTY LINE OF TAX MAP 740-2-3 (MINI ASSESSMENT ROLL)

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

**MOTION** by Council Member Larson seconded by Council Member Jacobs to find that the property of Ann Burton, identified as Tax Map #740-2-3A, East Rockway Street, Lot 8, has not benefited from the sewer main improvement at this time and to relieve the assessment in the amount of \$559.30 with the provision that a future frontage charge will be due and payable at the prevailing rate should the property connect to the sewer service (in accordance with City Policy); and

To find that the property of Ann Burton, identified as Tax Map #740-2-3, East Rockway Street, street closing, vacant, has not benefited from the sewer main improvement at this time and to relieve the assessment in the amount of \$350.00 with the provision that a future frontage charge will be due and payable at the

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prevailing rate should the property connect to the sewer service (in accordance with City Policy was approved at 7:19 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**SUBJECT: SEWER MAIN - EAST ROCKWAY STREET FROM SOUTH PROPERTY LINE OF TAX MAP 740-2-5 TO SOUTH PROPERTY LINE OF TAX MAP 740-1-7 (MINI ASSESSMENT ROLL)**

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

**MOTION** by Council Member Larson seconded by Council Member Jacobs to find that the property of Jeannette T. Ramsay, identified as Tax Map #740-2-7, East Rockway Street, Lot 2, vacant, has not benefited from the sewer main improvement at this time and to relieve the assessment in the amount of \$1,175.00 with the provision that a future frontage charge will be due and payable at the prevailing rate should the property connect to the sewer service (in accordance with City Policy was approved at 7:20 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**SUBJECT: ZONING ORDINANCE TEXT AMENDMENT CONCERNING REGULATIONS FOR CELLULAR AND OTHER TYPES OF TOWERS (TC108-00)**

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Bill Brian, Chair of the Durham Board of Adjustment, noted that problems exist relative to the cell tower ordinance. Also, he spoke in support of the amendment to the ordinance.

Mayor Tennyson declared the public hearing closed.

**MOTION** by Council Member Larson seconded by Mayor Pro Tempore Clement to receive citizens' comments concerning a proposed amendment to the Zoning Ordinance on regulations for cellular and other types of Towers; and

To adopt "An Ordinance Amending the Durham Zoning Code Provisions Regarding Cellular Towers to Require Applicants to Furnish Additional Information and to Fund the Cost of Independent Technical Expertise" was approved at 7:22 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

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Joint City/County Planning Committee's Recommendation: Approval

Zoning Committee's Recommendation: Approval

Planning Department's Recommendation: Approval

**Ordinance #12316**

**SUBJECT: ZONING ORDINANCE TEXT AMENDMENT CONCERNING DELETION OF  
LATE PAYMENT PENALTIES (TC117-01)**

Dick Hails, of the City/County Planning Department, briefed Council on the zoning ordinance text amendment.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

**MOTION** by Council Member Larson seconded by Mayor Pro Tempore Clement to receive citizens' comments concerning a proposed Zoning Ordinance Amendment regarding deletion of late fee requirements; and

To adopt "An Ordinance Amending Section 20.4.4 of the Durham Zoning Code to Delete Late Payment Penalties" was approved at 7:23 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

Joint City/County Planning Committee's Recommendation: Approval

Zoning Committee's Recommendation: Approval

Planning Department's Recommendation: Approval

**Ordinance #12317**

**SUBJECT: ZONING ORDINANCE TEXT AMENDMENT TO MODIFY DEFINITIONS  
AND STANDARDS FOR SERVICE STATIONS AND VEHICLE REPAIR  
SHOPS (TC118-01)**

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Tom Starks, representing Ted Royall, spoke in support of this item noting Mr. Royall is interested in putting in an oil change facility.

Mayor Tennyson declared the public hearing closed.

**MOTION** by Council Member Larson seconded by Council Member Jacobs to receive citizens' comments concerning the proposed ordinance to

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modify definitions and standards for service stations and vehicle repair shops; and

To adopt "An Ordinance to Amend the Durham Zoning Ordinance to Change the Definition of Service Stations [Section 2] and to Modify the Supplementary Regulations [Section 7] for Service Stations and Vehicle Repair Shops" was approved at 7:25 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

Joint-City County Committee's Recommendation: Approval of entire proposal

Zoning Committee's Recommendation: Denial of the provision to change the definition and thereby allow the uses in the NC Zone and approval of the proposal for additional standards for vehicle repair facilities and service stations.

Planning Department's Recommendation: Approval of entire proposal

**Ordinance #12318**

**SUBJECT: ZONING ORDINANCE TEXT AMENDMENT REGARDING SEPARATION OF KENNELS AND SIMILAR OUTDOOR AREAS FROM RESIDENTIAL USES (TC119-01)**

Dick Hails, Dick Hails, of the City/County Planning Department, briefed Council on the zoning ordinance text amendment.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Bob Jervis, representing Mr. & Mrs. Jay Husband, made comments noting that the Greenwood Veterinary has put in kennels behind the clinic in violation of the existing ordinance that needs to be dealt with. He noted the Zoning Committee recommended denial and urged Council to adopt that approach and allow this to be handled on an individual basis.

Jay Husband, 5411 NC Highway 55, expressed concern relative to the dogs barking and urged Council to enforce the ordinance as soon as possible.

Malvern King, representing the Greenwood Veterinary Hospital, spoke in support of this item noting that this is not a residential neighborhood and urged Council to support the Planning Department's recommendation.

Mayor Tennyson declared the public hearing closed.

Several Council Members spoke in support of this item.

**MOTION** by Council Member Larson seconded by Council Member Jacobs

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to receive citizens' comments concerning a proposed Zoning Ordinance Text Amendment regarding separation of kennels and similar outdoor areas from residential uses; and

To adopt "An Ordinance Amending Section 7 of the Durham Zoning Ordinance Regarding Supplementary Requirements for Veterinary Establishments and Kennels" was approved at 7:35 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

Joint City/County Planning Committee's Recommendation: Approval

Zoning Committee's Recommendation: Denial (0-7)

Planning Department's Recommendation: Approval

**Ordinance #12319**

**SUBJECT: ZONING ORDINANCE TEXT AMENDMENT REGARDING THE DEFINITIONS OF PUBLIC AND PRIVATE SCHOOLS (TC125-01 - CITY COUNCIL INITIATED)**

Dick Hails, of the City/County Planning Department, briefed Council on this item relative to the outstanding lawsuit against the Durham Board of Adjustment and courtesy review.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

Council Member Stith spoke in opposition to this item.

**MOTION** by Council Member Larson seconded by Mayor Pro Tempore Clement to receive citizens' comments concerning a proposed Zoning Ordinance Text Amendment regarding the definitions of public and private schools; and

To adopt "An Ordinance Amending Section 2 of the Durham Zoning Ordinance to Clarify the Intent of the Durham City Council Regarding the Definition of Schools" was approved at 7:38 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick and Wagstaff. Noes: Council Members Burnette and Stith. Absent: None.

Zoning Committee's Recommendation: [Courtesy review scheduled on Tuesday, June 12, 2001]

Planning Department's Recommendation: Approval

**Ordinance #12320**



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**SUBJECT: ZONING MATTER CASE: P01-04 - RENAISSANCE CENTER DEVELOPMENT COMPANY, LLC - 50.1 ACRES ON THE SOUTHEAST CORNER OF THE INTERSECTION OF FAYETTEVILLE ROAD AND HERNDON ROAD**

Case: P01-04

Applicant: Renaissance Center Development Company, LLC

Location: 50.1 acres on the southeast corner of the intersection of Fayetteville Road and Herndon Road (City Atlas Page 50, D-4)

Request: Rezoning from RD (Rural District) and OI-2 (General Office and Institutional District) to MU(D) (Mixed Use District with a Development Plan); F/J-B and MTC

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above property out of RD and OI-2 and placing same in and establishing same as MU(D); F/J-B and MTC.

Zoning Committee's Recommendation and Vote: Denial (6 Against and 1 in Favor)

Planning Department's Recommendation: Approval

Note: Protest Petition filed against this rezoning was ruled insufficient.

Dick Hails, of the City/County Planning Department, noted this project is a mixed-use zone. He stated the proposal has received support from the staff as being consistent with the mix-use designation on the site in the Highway 54/40 Corridor Plan adopted several months back. He noted the Zoning Committee recommended denial by a vote of 6 to 1 and the Planning Department is recommending approval.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

### **Proponents**

Attorney Ken Spaulding, representing the applicant, noted this is an application for a rezoning to a mixed-use zoning classification. Attorney Spaulding stated the applicant has received from the Planning Staff a recommendation for approval. He noted the proposal meets all of the city's long range and short-range comprehensive land use plans. Attorney Spaulding asked the council to follow the small area plan that the proposal be a mixed-use development classification.

John Silverman, representing Midland Atlantic Development Company, addressed council noting the following changes made to the plan to address concerns regarding the buildings being seen from behind the site [primarily the hotel from Herndon Farms and the statement the project is to shopping-centerish]. Mr. Silverman noted they have agreed to make two additional changes - the Marriott has agreed to reduce their building height by the

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equivalent of one floor down from 85 feet in height to 75 feet. Also, he noted they have moved the rear office buildings forward so 12 more landscaped islands can be installed behind the site which will allow trees to be placed which are 25 to 30 feet tall. He noted in addition to putting in the trees, they were able to reduce some of the parking area in the back and reduced the impact on the flood area from 3.5% to 1.9%.

Relative to the concern about the project being just another shopping center, Mr. Silverman stated of the three uses in the project - retail is the smallest use of the three. He noted in front of the project each parking area is smaller than the normal parking lot and there is only one out parcel in the project not five. He noted the only reason for an out parcel is because it is the remaining land on the other side of Herndon Road from their requirement to move Herndon Road [which the developer has been asked to do by NCDOT and by the City of Durham staff]. At this time, Mr. Silverman made available a drawing illustrating what the area would look like. He noted the shops were fancy upscale nice shops - not out parcels, not McDonald's, not Hardees, not fast-food restaurants. He noted between the buildings is a pedestrian amphitheater and the buildings face into the center and the buildings are finished on all four sides. Mr. Silverman noted the proposal is a mixed-use project not a retail project. He noted their biggest investment in the project is the Marriott Hotel and the two office buildings and the retail space is merely a compliment to the project not the focus.

At this time, Mr. Silverman provided pictures showing the difference between a typical shopping center and a renaissance center.

Mr. Silverman noted the economic benefit with City receiving \$1.25 million in real estate taxes and other tax benefits plus the money Durham County will receive. He noted there was no school impact.

In summary, Mr. Silverman stated they have gone to great lengths to address the concerns of the neighbors, members of City Council and the City staff. He stated if approved, they will build a project that will meet all of the city ordinances, meets the land use plan, has an impervious area surface area of less than 55%, and a flood impact of only 1.9%.

Dr. Anita Keith-Foust, representing the Kentington Heights Property Owners Association, spoke in support of the project.

### **Opponents**

Pat Bocckino, a resident of Abron Drive, noted that South Durham has already lived with this rezoning for almost two years but the consequences of the council's vote tonight will have an affect for years to come. She noted they supported development of the site but believe the plan at present has some major flaws. She stated despite the pictures and the water colors of malls the developer did not build, the developer has a poor history in

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South Durham. She stated Mr. Silverman was responsible for Southpoint Crossing where he pledged to protect the majestic trees but did not do so. Ms. Bocckino voiced concern on the following items: 1) the spite strip which denies neighbors the right to submit a protest petition but provides credit for the developer; the height of the hotel; 2) the lack of buffering along Crooked Creek, 3) the Herndon Farm and Massey Chapel neighborhoods; 4) the sea of asphalt parking and the bare legal minimum stormwater treatment on Crooked Creek; and 5) the lack of safe pedestrian access to Southpoint Mall. Ms. Bocckino asked the council not to approve the plan as presented.

Walt McMiller, a resident of Massey Chapel Road, addressed the council noting that he and his neighbors have suffered over the past years due to the explosive development in South Durham. He noted the quality of life has been greatly diminished and asked council to deny this request for rezoning.

Patrick Murphy, a resident of Massey Chapel Road, requested council to delay the vote on this rezoning for 30 days for the following reasons: 1) the development plan is based on the floodplain drawing and has not received official FEMA approval; 2) the City Attorney has not responded to our Attorney's letter regarding the protest petition which was denied due to the spite strip tactic that was employed by the developer; 3) although the neighbors provided written comments and concerns on this development for many months, it was only less than two weeks ago that even the most minor of our concerns have been seriously dealt with by the developer. He noted several goals that can be achieved if the request is delayed for 30 days.

Pete Schubert, a resident of Bluestone Road, noted several problems with the project as submitted: 1) Stormwater Runoff; 2) View from the Herndon Hills Farms - site being mass graded; and 3) the loss of the tree buffer. Mr. Schubert stated the developer has chosen the worst possible by placing the tallest building at the southern part of the site virtually insuring that all of the trees be eliminated. Mr. Schubert stated the developer should be demanded to do better and the council should require it. He asked council not to approve this project until these and other flaws are corrected.

Cindy Rhine, a resident of Cross Timbers Drive, stated when the Southpoint Mall was approved there were a number of issues they were assured would be addressed before approval of further development surrounding the mall. She stated they were assured that any development approved would be compatible with a high level of standard applied to the mall. She stated the Renaissance plan is not compatible with the mall - instead they have seen a strip mall, a giant hotel and still appears to be out parcels. Ms. Rhine noted the Renaissance plan as is requires that pedestrians cross six lanes of heavy traffic to walk from the Renaissance site to the mall and connectivity to the proposal and the mall has not been given appropriate consideration in the design.

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Wayne Cash, representing the Durham County Farmland Preservation Board, stated the Renaissance plan seems to have a lot of things that would be detrimental to the redevelopment of the American Tobacco Campus. Mr. Cash asked the council to review this proposal more closely.

Nancy Herndon, a resident of Massey Chapel Road [Herndon Farms], stated their farm shares 600 feet of property line with the proposed development which would entitle them to a protest petition except the developer has an un-rezoned portion at the back of the site which serves as a spite strip. She noted the developer is including the un-rezoned portion in his site plan to meet Durham's requirement for tree saving and impervious surface while at the same time excluding this land from the rezoning request in order to invalidate the protest petition. She asked council to be aware that they are a neighbor with a significant amount of adjoining property and will be directed affected by the proposed development. Ms. Herndon noted her family received a grant from the State to help place a permanent conservation easement on their farm and it will remain open space forever. She noted the proposed development will be visible from Massey Chapel Road and it will spoil the peacefulness for a lot of people. Ms. Herndon made council aware of a thick-stand of pines on the other side of a power easement that would screen everything that goes on in the Renaissance from Massey Chapel Road. She stated the developer intends to clear-cut the pines for his parking lot. She stated if the developer could rearrange his parking and save some of the pines and lower the height of the hotel below the treetops it would make a tremendous difference to the residential and rural areas of Massey Chapel Road. Ms. Herndon noted she opposed the proposed development as it stands now and asked council to delay action for one month to give them a chance to talk with the developer again. She noted the changes they are requesting are not that extensive but will make a tremendous difference to their community.

### **Rebuttal**

John Silverman noted they met with the neighbors more than three times and have had numerous phone calls over the past six months and they have made countless changes and have been happy to do so. He noted on the left-hand side one would see their buildings and on the right-hand side you see the Herndon home and from the Herndon property to the proposal it is one-third of a mile with trees in the middle that are between 60 and 80 feet tall. Mr. Silverman stated it is impossible to see the property and they sent their engineer out to some evaluations to make sure. Mr. Silverman stated they have agreed to the request to place more trees in the back and including reducing the height of the hotel building. Relative to the spite strip, Mr. Silverman stated they have agreed to dedicate it as a conservation area easement. He noted they have 15.3 acres between their property and the Herndon property that is not being developed that is a permanent buffer. He noted the area is not a spike strip but an area they cannot use; therefore, they did not rezone it. He noted they did not want to pay taxes on property they cannot use for anything except

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the dedication to the City, County or the Federal government for a conservation easement. Regarding the Crooked Creek buffering, he noted the city ordinance requires a 100 foot buffer and at their closest point they are 120 feet away from Crooked Creek and exceed the buffer requirement of the City by 20% at the closest point, and the average buffer distance between their property and Crooked Creek is 200 feet. Mr. Silverman stated they have lived by the terms of what the land use study recommends to be on the site.

In summary, Mr. Silverman noted to the statement they have out parcels and the project is a strip mall - he stated you cannot view the pictures and call the project a strip mall. He asked council to approve the project, or turn them down but do not insult them because this is not a strip mall and not out parcels. He stated the proposal was a step above the Southpoint mall.

Mayor Tennyson declared the public hearing closed.

At this time, City Attorney Blinder noted that specific tenants are not part of a land use decision and should not be considered.

**[Comments by Council]**

Mayor Tennyson asked the developer if the renderings presented are part of the development plan.

John Silverman replied yes. He noted they have submitted to the staff the same renderings the architectural quality drawings with a commitment letter about the building materials; etc.

Council Member Langley asked the developer if a 30-day delay would be beneficial.

John Silverman stated a 30-day delay would not make a difference. He noted they have had three meetings and numerous conversations and have made a number of changes they have been asked to make.

At this time, John Silverman made comments on mass grading noting it will not be done in different pods.

Council Member Langley noted the project would be a compliment to the Southpoint Mall and Durham deserves some of the best. Council Member Langley noted she would be voting in favor of the rezoning.

Council Member Jacobs asked the developer what would be the impact of a 30-day delay.

John Silverman noted they did not own the property and their contract would expire soon and they needed to close within a very short time. He noted he did ask the seller if they could have more time and where told no. Mr. Silverman also stated the rezoning is only the first step in the process and they have to go through the DRB process which will take several months.

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Council Member Jacobs asked the developer if it would be possible to save some of the pine trees as mentioned and how would the pedestrian access to the mall be handled.

John Silverman noted they have 15.2 acres of save area - and they are saving a lot of trees. Mr. Silverman noted the pedestrian access would be right across the street with a pedestrian traffic signal. He noted they have more than two miles of pedestrian access throughout the project.

At this time, Nancy Herndon noted the trees they were concerned about block the view down the power easement. She noted the power easement is 128 feet wide and it is clear cut and it comes out on Massey Chapel Road. She stated from Massey Chapel Road up through Ellison Heights there is no tree cover at all, and currently there is a thick stand of 40 foot tall pine trees which would make a fabulous screen. She noted the view from her house is not what she is worried about - it is the view from their fields, the view from the road and the view from other family houses.

John Silverman stated from the \_\_\_\_\_ easement to their property is about 250 feet and there is room for them to save some trees and they would love to do that. He noted they have not done a tree survey but will be glad to do that as part of the DRB process [to do a tree survey back there and save those trees when we can]. Mr. Silverman noted a tree survey between now and DRB will be done.

Also, Mr. Silverman made comments about a water sample mentioned by Ms. Bocckino noting it was a pond at 751 in Renaissance Parkway. He noted it was a stormwater retention pond not a aesthetic pond - it is a construction pond that is meant to hold sediment during construction. He noted as long as there is construction activity with the mall and the offices the pond will be muddy.

Council Member Jacobs asked the developer if it could be written as a definite guarantee that there will be no fast food restaurants.

John Silverman replied the out parcels will not have fast food.

Dick Hails, of the City/County Planning Department, noted the development plan does not show drive-thru windows on any of the out parcels and this could be a legitimate land use restriction on the development plan if the developer where to offer that.

Mayor Tennyson stated the suggestion is that a note be attached to the development plan stating there will be no drive-thru windows.

John Silverman noted on the out parcels that is fine; however, in one of the office buildings they anticipate having a bank with a drive-thru bank facility.

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Dick Hails, of the City/County Planning Department, noted it sounds like the developer is declining on the one instance to eliminate a drive-thru option for a bank.

Mayor Tennyson noted as to all the buildings shown except for the office buildings there would be no drive-thru windows. The Mayor noted that is the statement as he understands it and asked the developer if that is correct.

John Silverman replied that is 100%.

Mayor Tennyson noted the developer has added that to his plan and it will be shown as a note.

Council Member Stith noted he had concerns with the FEMA issue and the floodplain and asked the developer what was the status.

John Silverman noted they have completed the floodplain study because they were aware of the sensitivity of the creek. He noted they have gotten through the process where FEMA has approved their data and now they are waiting for the documents to be signed.

Council Member Stith asked the developer what commitments are actually in writing [examples: lighting; landscaping; irrigation].

John Silverman noted they have submitted the building elevations and the architectural drawings/renderings have been submitted as a committed element with a small amount of flexibility to be adjusted from store front to store front. He noted they have agreed to the committed elements which is same the council saw in the pictures. He noted the lighting plan has been done and the requirement for the City is that the light level be at point five foot candles which is the measurement at the property line. He noted they have changed it in order to be at a zero foot candles at their property line which goes to the east toward the Herndon Farm. He noted they were also below the point five allotment on the southside of the property between their property and where the future apartments will be in accordance with the land use plan. He noted it was not a required document but would be happy to submit it as a required measure relative to the foot candle measurement. He noted the landscape is part of the DRB drawing and it is a committed element. Mr. Silverman stated the City requires a maintenance bond to make certain the landscaping is maintained and irrigation systems are placed in most of all their landscaping.

Dick Hails, of the City/County Planning, stated when the landscaping exceeds the minimum requirement of the zoning ordinance a committed element must be made to make a long term commitment to the landscaping.

Council Member Stith asked what was is the City's commitment to hold developers to what they are supposed to do during the construction process and making sure the ordinances are enforced.

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Dick Hails noted the biggest complaint which frequently comes up is - this was discussed or this was shown at the time of the rezoning and then the site plan comes in differently or the site was built differently. He noted the more elements of what is shown tonight or committed by the developer - the more authority they have in enforcing it when the site plan comes in. He stated they had a discussion with the developer last week about the new series of colored pictures here on the facades and they specifically talked about what portions of the facades are committed vs. flexible. He noted the developer made the commitment that the majority of the upper facade was committed and the area around the shops on the ground floor allowed some flexibility for the tenants. He noted if the developer is saying tonight that he is committing to those facades with only shop front modifications that is a more substantial commitment and it will give us more enforcement power later on.

Council Member Stith asked the developer what was his plan/commitment for diversity with the project.

John Silverman noted he was a big supporter in involving all aspects of the community including minority construction in the process. He noted they have interviewed two different construction firms and they have had a lot of conversation with them about minority participation.

Council Member McKissick asked if it was possible to designate a land use classification to more narrowly define the elimination of fast food restaurants rather than saying fast food windows.

Dick Hails noted they have a definition in the ordinance between high volume retail and low volume retail that is sometimes used to establish different parking requirements. He stated he did not know if they differentiate between restaurants in the zoning ordinance. He stated drive-thru windows are specific elements they could be prohibited and that serves the purpose of eliminating certain restaurants, but he did not believe within the zoning ordinance there was a definition of different types of restaurants.

Council Member McKissick noted it was his understanding there is an amended development plan which shows the massing of the commercial buildings being re-subdivided with the new entry road coming in. Council Member McKissick asked the developer if that specific plan is a part of the record for council's consideration this evening.

John Silverman replied yes it is.

In terms of road design elements, Council Member McKissick asked if mass-arms with the traffic lights and posts a specific committed element part of the plan.

John Silverman replied yes at the intersection of Herndon and



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Fayetteville Road.

Council Member McKissick asked the developer if the pedestrian signalization is a committed part of the plan.

John Silverman replied yes.

Council Member McKissick asked the developer what was he establishing as the maximum height or elevation that the structure would have.

John Silverman stated 75 feet from the finish floor to the roof deck.

Council Member McKissick asked the developer if the finish floor elevation would be 10 feet below the elevation of Fayetteville Road and if this is a committed element.

John Silverman replied yes it is.

In terms of the conservation easement that was discussed going along the back rear side of the property as it adjoins the Herndon property, Council Member McKissick asked the developer if it was a committed element and something he would carry forth.

John Silverman replied yes it is.

Council Member McKissick asked the developer if it is possible to pull the parking in further so it intrudes even less into the area.

John Silverman stated he had already committed to pulling the parking in further. He noted saving of the trees would require some of the parking be taken out in back. Mr. Silverman stated it has not been incorporated into the final details but it will be based on the requirement asked by Council Member Jacobs [we save the trees for Council Member Jacobs and we take out the parking in your request].

For clarification, Mayor Tennyson asked which parking.

Council Member McKissick stated it is the rear parking that stands out and protrudes on the proposed development plan as presently presented - it will be removed.

Dick Hails noted it is the area where the parking is in the floodway fringe it is the southernmost portion of that which is viewed by some of the residents as most critical to maintain a visual buffer.

A representative of the developer noted the area being pointed out by Ms. Herndon was east of the pond to block the view coming up the power easement. The representative stated in that corner they will be removing some parking so there will be a tree saved area to block the full up the power line.

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At this time, City Attorney Blinder noted it was fine for the developer to have agreements with the neighborhood and okay for the developer to make proposals and changes to the development plan, but there should not be discussion on agreements between Council and the developer on the application as part of the voting decision.

Council Member McKissick noted he believed the developer was offering this at this time as a committed element.

John Silverman replied yes as a committed element.

Council Member McKissick asked the developer if the stormwater detention pond had been expanded in size/natural perimeter of the site near Herndon Road.

John Silverman replied that is correct. He noted the pond on the northside has basically grown by approximately by 50% to convert it to a wetland pond and it is a committed element.

Council Member McKissick asked if all of the transportation improvements have been included recommended by staff that were a part of the original recommendation

John Silverman replied yes.

Council Member McKissick asked if the note has been included provided to Nazeem Abdul-Hakeem of the Planning Staff relating to the intersection improvements at Herndon and Massey Chapel Roads and if this is a committed element as well as the bike lanes that have been discussed going down in that direction to Lakehurst point.

John Silverman replied yes.

In terms of design continuity elements which have been discussed significantly this evening, Council Member McKissick asked if they all have become a committed element.

John Silverman made reference to the architectural drawing [the freehand artist renderings] noting it is a committed element. He noted some of the drawings have been revised due to breaking up the buildings and they will need to be changed because they do not reflect the new building design.

Council Member McKissick asked if they were part of the record accept to the extent amended by the most recent submissions within the last two days.

John Silverman replied yes.

Council Member McKissick asked if all the pedestrian linkages shown are committed elements.

John Silverman replied yes.

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Council Member McKissick asked the developer what is the depth of the buffer along the rear of the property.

John Silverman stated it varies - averages about 300 feet in depth. He noted it was 120 feet at the minimum from Crooked Creek.

Council Member McKissick stated he believes there was a commitment to put in trees 25 to 30 feet along the rear line.

John Silverman stated that is correct. He made reference to additional islands they are going to install behind the office building to further block the view to the overhead power line. Mr. Silverman stated this is a committed element.

Council Member McKissick stated the proposal fits very neatly with the small area plan and this is a mixed-use development that will well serve the needs of this community.

At this time, Nancy Herndon stated the site plan has been redesigned to accommodate her request for trees. She stated she was unsure of what the results were due to an artist drawing and wanted to make sure the revisions met what she was trying to accomplish.

As the project exists now, Council Member Wagstaff asked Ms. Bocckino what changes would she like to see which have not been addressed.

Pat Bocckino stated the hotel is still an issue and they were not totally convinced that the hotel would not loom in the area.

Council Member Wagstaff spoke in support of the proposal noting it was a good development.

Council Member Edwards spoke in support of a delay on this item to allow the residents and the developer more time to come to some consensus about the hotel. Council Member Edwards asked the developer if there is anything else he could do relative to working with the residents on the hotel.

John Silverman stated they could continue to evaluate whether they can reduce that property even more. He noted they could probably take the site down a couple more feet which can be looked at between now and DRB. He noted they are willing to continue to work because they wanted to be good neighbors.

Council Member Hill asked the developer about two buildings along Fayetteville Road noting opposition and/or a problem with the Planning Department to move the buildings closer into project.

John Silverman stated when they started working with the City, the staff promoted moving the buildings up to the street level and putting the parking behind the buildings. He noted it was not a problem per se, but it had been a recommendation in the past.

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Council Member Hill asked the developer to comment on the committed elements regarding the back of the buildings that are facing Fayetteville Road.

John Silverman noted the buildings are finished on all four sides having the same material as the front and sides which is a committed element.

Council Member Hill stated this piece of property was crucial to the whole development out there.

John Silverman made comments on the commercial property [the southside] and how it connects to the Marriott.

Council Member Hill stated even though he liked a lot of the elements about the project; however, there are some which concern him a great deal and he would not be supporting the request.

Council Member Blyth stated she was more concerned about the height of the hotel. She asked the developer what was the top height of the hotel about where Fayetteville Road would be [from where Fayetteville Road would be to the top of where the applicant is proposing the reduced 75 foot building].

John Silverman stated currently from Fayetteville Road to the roof is 65 feet.

Council Member Blyth stated if the drawing is correct and has been done by engineers to scale, the building as shown would be under the site line of the trees from anywhere to the right of the easement on the farm.

John Silverman stated that is correct.

Council Member Blyth asked the applicant if he would be willing to place a note on the plan defining the height of the hotel or all buildings, including any paraphernalia located on top, will not be no more than the equivalent of 65 feet above the center of Fayetteville Road.

John Silverman stated they will agree to that note - from the roof to Fayetteville Road it will be no more than 65 feet for the hotel or any other building.

Dick Hails noted this is related to the roof and would not prohibit HVAC; etc.

Council Member Blyth asked the developer if he would add to his commitments to provide additional plantings [working with the Herndons] if visibility is still a problem after the project is built.

John Silverman replied yes.

Council Member Blyth stated she did not see any reason for

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delaying this rezoning and would be supporting the request. Also, Council Member Blyth asked the developer to meet with Jim Farrell of Urban Properties to come up with a better solution for the pedestrian crossings.

Council Member Larson stated when it viewed the proposal it had not viewed it as mixed-use development.

Council Member Cheek stated there are still a large number of questions which remain about buildings configurations, parking areas, impervious surface, no FEMA approval yet, watershed protection and tree buffer issues. He noted under these circumstances he could not support the request.

Mayor Pro Tempore Clement spoke in support of the request and noted the proposal will provide jobs.

A motion was made by Mayor Pro Tempore Clement to approve the rezoning request. The motion was seconded by Council Member McKissick.

Mayor Tennyson stated he would not be supporting the rezoning because it was not the original plan shown to him by Mr. Silverman. He noted the original plan was a substantial plowing of new ground for development in Durham and he would have supported that. The Mayor noted the burden on the developer is very heavy because there have been promises made through the drawings and through conversations tonight which he looked forward to seeing him fulfill.

At this time, the Planning Staff, Ms. Herndon and a representative of the applicant viewed the plan trying to define an area where existing trees could be saved to block the view of the parking lot from the power line easement.

Dick Hails noted they would take a look at all existing trees in the area and make sure they are saved to the extent possible.

For clarification, the City Attorney noted any agreement regarding an additional tree save area would not be between the developer and staff. He noted it would be a proposal made by the developer, and staff would need to know what the area was to enforce the appropriate note on the development plan.

Council Member McKissick asked the Transportation Division about transportation improvements committed to by the developer along Massey Chapel Road as well as the bikeways.

Mark Ahrendsen stated it was his understanding the transportation improvements noted are being committed by the developer.

Council Member Larson asked the staff what would happen if FEMA rules against the application.

Dick Hails stated if the applicant does not receive FEMA approval the site plan cannot be processed showing development in those

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areas.

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member McKissick to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above property out of RD and OI-2 and placing same in and establishing same as MU(D); F/J-B and MTC was approved at 9:38 p.m. by the following vote: Ayes: Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Jacobs, Langley, McKissick, Stith and Wagstaff. Noes: Mayor Tennyson and Council Members Cheek, Edwards, Hill and Larson. Absent: None.

**SUBJECT: ZONING MATTER CASE: P01-17 - R. L. HORVATH ASSOCIATES, INC. - 26.90 ACRES ON THE SOUTH SIDE OF CARPENTER ROAD BETWEEN FERRELL AND CHEEK ROADS, ABUTTING PANTHER CREEK**

Case: P01-17

Applicant: R. L. Horvath Associates, Inc.

Location: 26.90 acres on the south side of Carpenter Road between Ferrell and Cheek Roads, abutting Panther Creek (City Atlas Page 20, A-2)

Request: Rezoning from RD (Rural District) and PDR 1.82 (Planned Density Residential with a maximum of 1.82 dwelling units per acre) to PDR 2.12 (Planned Density Residential with a maximum of 2.12 dwelling units per acre); F/J-B

Zoning Committee's Recommendation and Vote: Denial (7 Against, 0 in Favor)

Planning Department's Recommendation: Approval

Dick Hails, of the City/County Planning Department, noted that this rezoning is consistent with the adopted plans.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

### **Proponents**

Ron Horvath, representing the applicant, spoke in support of this rezoning noting it is consistent with the adopted plans and will have a minor impact on the schools.

No one spoke in opposition to this item.

Mayor Tennyson declared the public hearing closed.

**MOTION** by Council Member Larson seconded by Mayor Pro Tempore Clement to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above property out of RD and PDR 1.82 and placing same in and establishing same as PDR 2.12; F/J-B was approved at 9:41 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick and Stith. Noes: Council

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Member Wagstaff. Absent: None.

**SUBJECT: ZONING MATTER CASE: P01-20 - LICHTIN CORPORATION  
(ARRINGTON) - : 96.15 ACRE SITE ON THE SOUTHEAST CORNER  
OF PAGE ROAD AND COMSTOCK ROAD**

Case: P01-20

Applicant: Lichtin Corporation (Arrington)

Location: 96.15 acre site on the southeast corner of Page Road and Comstock Road (City Atlas Page 53, A-1)

Request: **Change in Development Plan**--MU(D) (Mixed Use District with a Development Plan); MTC (partial)

Zoning Committee's Recommendation and Vote: Approval (5 in Favor and 2 Against)

Planning Department's Recommendation: Approval

Dick Hails, of City/County Planning Department, briefed Council on this item noting that the site was rezoned nearly a year ago, overall rezoning reduces the square footage and the impact this rezoning would have on traffic and the schools. Also, he noted when this was rezoned it was not in strict keeping of the adopted Triangle Township Plan and in the future, there would be a need to amend the plan. However, it is consistent with many aspects of the Triangle Township Plan.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

### **Proponent**

Attorney Jack Markham, representing the applicant, spoke in support of this proposal highlighting the use categories. He noted the change use modifications relative to the reduction in the number of multi-family units; office component is located on a ½ acre more; commercial center; change location of hotel; and daycare center. Also, he noted that Office Buildings 1 and 2 have received site plan approval and grading permits and Office Building 5 is in the final stages of site plan approval and urged Council to approve the rezoning.

No one spoke in opposition to this rezoning.

Mayor Tennyson declared the public hearing closed.

**MOTION** by Council Member Larson seconded by Council Member Jacobs to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above property out of MU(D) and placing same in and establishing same as MD(D); MTC (partial) to change the development plan was approved at 9:47 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

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**SUBJECT: ZONING MATTER CASE: P01-23 - MENDALL, LLC - 3.41 ACRES  
LOCATED AT 929 MORREENE ROAD, NORTH OF ERWIN ROAD AND  
SOUTH OF DURHAM FREEWAY, EAST OF US 15/501 AND WEST OF  
LASALLE STREET**

Case: P01-23

Applicant: Mendall, LLC

Location: 3.41 acres located at 929 Morreene Road, north of Erwin Road and south of Durham Freeway, east of US 15/501 and west of LaSalle Street (City Atlas Page 22, B-3)

Request: RM-12 (Multi-Family Residential with a maximum of 12 dwelling units per acre) to RM-20(D) (Multi-Family Residential with a maximum of 20 dwelling units per acre with a Development Plan)

Zoning Committee's Recommendation and Vote: Approval (7-0)

Planning Department's Recommendation: Approval

Shelia Stains-Ramp, of the City/County Planning Department, briefed Council on the rezoning noting it is in conformance with the draft Small Area Plan and staff recommended approval.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

### **Proponent**

Ron Horvath, representing the applicant, spoke in support of this rezoning urging Council to approve the project.

No one spoke in opposition to this item.

Mayor Tennyson declared the public hearing closed.

Ron Horvath, representing the applicant, noted that the applicant will provide a small tot lot area for children five and under at the site.

Council Member McKissick asked the applicant if this is a committed element.

Ron Horvath, representing the applicant, replied it's a committed element and would be on the development plan.

**MOTION** by Council Member Larson seconded by Council Member Jacobs to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above property out RM-12 and placing same in and establishing same as RM-20(D) was approved at 9:49 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.



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**SUBJECT: ZONING MATTER CASE: P99-56 - C.A.I. GROUP, LTD. - 3.341 ACRES ON THE EAST SIDE OF FARRINGTON ROAD, NORTH OF NC 54, BETWEEN FARRINGTON ROAD AND I-40**

Case: P99-56

Applicant: C.A.I. Group, Ltd.

Location: 3.341 acres on the east side of Farrington Road, north of NC 54, between Farrington Road and I-40 (Tax Map 486-5-1E, NCDOT right of way being purchased, third piece without Tax Map identification) (City Atlas Page 41, B-1 and B-2)

Request: Rezoning from R-20 (Residential 20 District) to OI-2(D) (General Office and Institutional District with a Development Plan); F/J-B and MTC

Zoning Committee's Recommendation and Vote: Denial (7 Against and 0 in Favor)

Planning Department's Recommendation: Approval

Shelia Stains-Ramp, of the City/County Planning Department, briefed Council on the staff report.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

### **Proponents**

Attorney Kenneth Spaulding, representing the developer, spoke in support of this rezoning. He noted there would be no impact or increase on the school population. Attorney Spaulding noted that there have been significant changes since the Zoning Committee meeting in September. He highlighted the following changes: all retail uses have been eliminated; there is enhanced landscaping [30 hardwoods and 50 cypresses]; the width of the building has been reduced and total square footage of the 2-story building; and additional sidewalks/pedestrian lanes have been added. Also, he noted the developer has been requested by staff to make certain traffic improvements and also the developer offered and will be proposing to do additional traffic and road improvements which include a right-turn lane on Farrington Road at NC 54, a doubling of the left-turn stacking capacity on Farrington Road leading to NC54 at said intersections and a left-turn added to the Ecko Shopping and Office area from Farrington Road.

Chris Howlett, representing the developer, spoke in support of this rezoning. He noted that 15 revisions have been made to the Development Plan and requested Council to approve project.

### **Opponents**

Curtis Booker, of 5419 Farrington Road, spoke in opposition to this rezoning. He noted this property is not appropriate for single-family residential and expressed major traffic concerns noting the access and the egress to this property is very close to the intersections of Interstate 40 and NC54 and to NC54 and

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Farrington Road. He requested moving access and egress further away from the intersection and some reduction in square footage.

John Eaddy, representing Citizens Alliance for Responsive Development, spoke in opposition to this rezoning requesting that the project be reduced in size, the rezoning be conditioned upon an amendment of the site plan to allow larger tree buffer areas and more green space on the property; and to allow buffer area along the 54 exit and Farrington Road be increased to provide more tree density.

### **Rebuttal**

Attorney Kenneth Spaulding, representing the developer, made comments relative to the buffer area and urged Council to approve this rezoning.

Earl Lewellyn, of John McAdams Company, reported that the site traffic would increase the level of traffic through that intersection by 2%. He noted improvements are three-fold which would include a northbound right-turn lane into the site, a southbound right-turn lane on Farrington at 54 and a northbound left-turn lane on Farrington Road at old Landlubber site. These improvements would mitigate site traffic but helps reduce overall delay at the intersection.

Mayor Tennyson declared the public hearing closed.

Council Member McKissick asked Earl Lewellyn after the proposed improvements have been made to the intersection what would be the level of service.

Earl Lewellyn, of John McAdams Company, noted the level of service would be a relatively high E with a slightly less delay.

Council Member McKissick asked staff if there are any improvements to take place at this intersection.

Mark Ahrendsen, Transportation Manager, noted there are no projects programmed in the NC TIP for improvements at this location. He also noted that NCDOT is conducting a study in cooperation with MPO looking at HOV lanes and improvements along I-40. They did a bottleneck analysis at three select interchanges at NC 54 and are developing interim interchange improvements that could help deal with some of the capacity problems - providing additional turn lanes at this location up to the ramp that would improve the capacity at this intersection. These are recommendations and no funding has been provided.

Council Member Larson asked staff if the ingress and egress is removed far enough from 54 to provide safe access.

Mark Ahrendsen, Transportation Manager, noted it does with the improvements the developer has added with the right-turn lane to help accommodate that.

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Council Member Hill asked the developer if the second driveway can be moved down or if the two driveways can be combined into one.

Earl Lewellyn, of John McAdams Company, replied in order to move the driveway further away from the intersection, the grade of the driveway would be too steep.

Council Member Cheek asked staff if the traffic improvements that are being offered by the developer are not made through this project or some other project, can Council anticipate that it would occur.

Mark Ahrendsen, Transportation Manager, noted no other improvements are scheduled in funding programs for improvements at that location at this time.

Council Member Jacobs raised a concern relative to the buffer.

Attorney Kenneth Spaulding, representing the developer, noted the developer would be adding over 100 different trees - cypresses and hardwoods.

Chris Howlett, representing the developer, made comments about the I-40 buffer noting the developer has been granted a variance of 25 feet but has voluntarily made that buffer 30 feet and in addition are adding 80 additional trees which exceed the City's requirement.

Council Member Jacobs asked Mr. John Eaddy if he had a response to what the developer is proposing.

John Eaddy, representing Citizens Alliance for Responsive Development, noted that he would like to see the buffer restored, more trees planted on the Farrington Road side to reduce the noise from I-40, and requested that the buffer on both sides of this development be increased in density to provide more green space.

Council Member Jacobs asked the developer if Mr. Eaddy's requests would be possible.

Chris Howlett, representing the developer, noted that a great deal of the site is being left untouched so most of the trees on the northern end of the site aren't being touched at all, the building would act as a better buffer than the pines and 80 trees have been added along the I-40 screening area. I don't know how we can add any more trees to Farrington Road.

Mayor Tennyson spoke in support of this item noting based on the existing building structure and allowed apron, the intersection improvements that are proposed are going to substantially mitigate the problem.

Council held discussion on the transportation concerns, use, and buffer.

**MOTION** by Council Member Larson seconded by Mayor Pro Tempore

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Clement to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above property out R-20 and placing same in and establishing same as OI-2(D); F/J-B and MTC was approved at 10:19 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**[OTHER MATTERS]**

**SUBJECT: 2001 LEGISLATIVE PROGRAM AMENDMENT - REQUEST FOR AUTHORITY FROM THE GENERAL ASSEMBLY TO ALLOW THE CITY TO CONSIDER CONSTRUCTION ADMINISTRATION COST WHEN AWARDING CONTRACTS FOR THE BUS TRANSFER FACILITY**

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Jacobs to amend the 2001 Legislative Program to include a request to the General Assembly for an exemption from Article 8 of Chapter 143 of the General Statutes for the construction of the bus transfer facility, in order to allow the City of Durham to consider the cost of construction oversight and administration when determining whether to award a contract under the single-prime contract system or the separate prime contract system was approved at 10:19 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

At this time during the meeting, Consent Agenda Item #10 [SITE PLAN APPROVAL - THE VILLAGES AT HOPE VALLEY FARMS, PODS NN & X] was discussed before the budget item.

**[ITEM PULLED FROM CONSENT AGENDA]**

**SUBJECT: SITE PLAN APPROVAL - THE VILLAGES AT HOPE VALLEY FARMS, PODS NN & X**

To approve a site plan for The Villages at Hope Valley Farms, Pods NN & X, submitted by The John R. McAdams Company, Inc. on behalf of Caswyck-HVF, LLC, consisting of 272 apartments proposed on a ±17.24 acre site, zoned PDR 3.44 in Pod NN and 78 apartments, 46 townhomes and 17,838 square feet of retail/office space on a proposed ±15.94 acre site, zoned PDR 7.78 in Pod X, and located on the east side of South Roxboro Street (currently under construction) south of the proposed Martin Luther King, Jr. Parkway and north of Carlton Crossings Drive (Tax references 507-1-3A (part), 508-1-1; PIN #0729-01-07-8703 and #0729-01-19-2386 (part) and City Atlas Page 37, A-2 and A-3)

Dave Slade, President of the Hope Valley Farms Homeowners Association, expressed concern relative to stormwater runoff and the impact it would have on those living downstream along Third Fork Creek. He requested detention ponds or other suitable stormwater measures be put in place by the developer to minimize

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the negative impact that the increase in impervious service that result in run-off would have on us downstream of these projects.

Mayor Tennyson asked staff if the site plan meets our ordinances.

Katie Kalb, Public Works Director, replied yes.

Council Member Blyth expressed a concern about residents experiencing additional flooding.

Council Member Blyth asked staff if the developer should consider putting in detention ponds and what authority does the City have to address the situation.

Katie Kalb, Public Works Director, noted that the City has looked at this issue and didn't find that they were warranted and noted the Dunbarton Homeowners Association is a priority project that would help their situation.

Mayor Pro Tempore Clement expressed a concern that these issues raised by Mr. Slade were not discussed at the Public Works Committee Meeting.

A motion was made by Mayor Pro Tempore Clement seconded by Council Member Blyth to refer this item to the July 9, 2001 Public Works Committee meeting for consideration.

Council held discussion on detention ponds in the area.

**SUBSTITUTE MOTION** by Council Member Cheek seconded by Council Member Wagstaff to approve a site plan for The Villages at Hope Valley Farms, Pods NN & X, submitted by The John R. McAdams Company, Inc. on behalf of Caswyck-HVF, LLC, consisting of 272 apartments proposed on a ±17.24 acre site, zoned PDR 3.44 in Pod NN and 78 apartments, 46 townhomes and 17,838 square feet of retail/office space on a proposed ±15.94 acre site, zoned PDR 7.78 in Pod X, and located on the east side of South Roxboro Street (currently under construction) south of the proposed Martin Luther King, Jr. Parkway and north of Carlton Crossings Drive (Tax references 507-1-3A (part), 508-1-1; PIN #0729-01-07-8703 and #0729-01-19-2386 (part) and City Atlas Page 37, A-2 and A-3) was approved at 10:29 p.m. by the following vote: Ayes: Mayor Tennyson and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: Mayor Pro Tempore Clement. Absent: None.

**SUBJECT: FISCAL YEAR 2001-2002 BUDGET MATTERS**

Phil Wiggins, of Fraternal Order of Police, spoke in support of the 2-2-4 plan for city employees.

Emily Gunter, of 1007 Arnette Avenue, spoke in support of funding for the Rites of Passage Youth Empowerment Foundation.

Steve Hopkins, of 526-B Barnes Avenue, made comments about

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economic development and spoke in support of summer jobs for the youth and funding for the Housing Department and the Impact Team.

Juan Echeverria, of Human Relations Department, spoke in support of funding for El Centro.

Bill Johnson read a letter in support of Durham firefighters.

Ivan Perra spoke in support of funding for El Centro and gave an overview of the activities that El Centro will undertake if they receive funding.

Father David McBriar, Immaculate Conception Catholic Church, spoke in support of continued funding for El Centro noting that it is critical that services be offered to them in their language.

Jackie Carroll Garcia spoke in support of funding for El Centro and urged Council to approve a 4-2 raise for City employees.

**a. Fiscal Year 2000-2001 Budget Ordinance Amendment #5**

**MOTION** by Council Member Larson seconded by Council Member Cheek to adopt "An Ordinance Amending the 2000-01 City of Durham Budget Ordinance, the Same Being Ordinance #12001" was approved at 10:54 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**Ordinance #12321**

**b. Fiscal Year 2000-2001 Financial Plans for Internal Service Funds Amendment**

**MOTION** by Council Member Larson seconded by Council Member Cheek to adopt a "Resolution Amending Resolution #8681, as Amended, Establishing FY 2000-2001 Financial Plans for Internal Service Funds" was approved at 10:55 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**Resolution #8777**

**c. Fiscal Year 2001-2002 Preliminary Budget**

**MOTION** by Council Member Larson seconded by Council Member Jacobs to receive a report from the Administration concerning changes made by the Finance Committee and Staff to the 2001-2002 City of Durham Preliminary Budget was approved at 10:55 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**d. Plotting and Duplicating and Driveway Inspection Fee**

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**Adjustments for Fiscal Year 2001-2002**

**MOTION** by Council Member Larson seconded by Council Member Cheek to adopt "A Resolution Revising the New Fee for Duplicating Services Provided by the Public Works Department; and

To adopt "A Resolution Revising the New Fee for Driveway Inspections Provided by the Public Works Department" was approved at 10:56 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**Resolution #8778-8779**

**e. Parking Fee Increases**

To adopt a "Resolution Increasing Parking Rates in Parking Facilities."

Council Member Blyth spoke in opposition to this item noting this is not in the interest of encouraging activity downtown.

A motion was made by Council Member Larson seconded by Council Member Cheek to approve the item as printed on the agenda.

Council Member McKissick asked staff how would the increase in parking fees impact City employees.

City Manager Marcia Conner stated there are a few lots that the City pays subsidies for City employees to provide parking and we are recommending that we go to 50% of that subsidy this year and next year do away with the subsidy for City employees for parking. She noted that a small number of employees would be impacted by this change.

Kendall Abernathy, Property & Facilities Management Director, stated that we are recommending that you continue the subsidy throughout this coming fiscal year, cut it to 50% in FY 2003 and eliminate it the year after that. She also noted it's \$15 per month per employee on lots 14 and 29 which amounts to \$17,000 in the budget. Also, she noted that employees who park on any other City lot pay in full without any subsidy available to them.

A substitute motion was made by Council Member McKissick seconded by Mayor Pro Tempore Clement to approve the item as printed on the agenda with the exception of those particular City employees.

Council Member Burnette asked if City employees would be paying \$35.00 rather than \$15.

Kendall Abernathy, Property & Facilities Management Director, replied not this year. She stated that the \$15 a month subsidy would stay in place through this coming fiscal year.

Council Member Burnette asked if City employees would have to pay

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\$35 next year.

Kendall Abernathy, Property & Facilities Management Director, replied it is an annual decision and noted their subsidy is budgeted for this upcoming fiscal year.

Council Member Cheek spoke in support of this item noting this is a modest increase.

Council Member Larson noted there is no impact to the subsidy this year.

Kendall Abernathy, Property & Facilities Management Director, noted the subsidy is in place for the next fiscal year through FY 2002. She stated the subsidy is the \$15 a month that has been for a number of years.

Council Member McKissick asked if it would continue in full through this year.

Kendall Abernathy, Property & Facilities Management Director, replied yes, it continues in full through this year.

Council Member McKissick asked what we are being asked to do is to adopt it in full for this year but to also adopt a policy to decrease it.

Kendall Abernathy, Property & Facilities Management Director, replied no. She noted you would adopt the budget every year and this will be in next year's budget. You would again decide based on a recommendation to decrease subsidy, or eliminate it, or continue it in full.

Council Member McKissick asked if all City employees receive the same benefit.

Kendall Abernathy, Property & Facilities Management Director, replied no, just the people who park on two surfaced lots 14 and 29.

Council Member McKissick asked staff if the people on those two lots would continue to get the full subsidy this year that they have been receiving in preceding years.

City Manager Marcia Conner replied that's not correct. She noted for FY 2001-02, we are recommending the subsidy not change. What we are letting you know is that we do have inequity there and that there are other employees in the City paying full freight for their parking. We have approximately 50 employees whose parking is subsidized and we are recommending that you continue that subsidy for one more year and the second year we are recommending that the subsidy go to 50%.

Council Member McKissick noted if the second year is not being voted on tonight but simply being stated as a preference, then I would go on record saying that I don't support that preference and



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if no one is being adversely impacted this year, I will withdraw my substitute motion.

Mayor Pro Tempore Clement asked if this does not take effect until next fiscal year [2002], why are we considering this item.

Mayor Tennyson noted there are parking fee increases that take effect July 1 through June 30. The change to the subsidy policy will not take effect until adopted in any case not before July 1, 2002, but there are increases in parking rates contained in this motion.

**MOTION** by Council Member Larson seconded by Council Member Cheek to adopt a "Resolution Increasing Parking Rates in Parking Facilities" was approved at 11:03 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Cheek, Hill, Jacobs, Langley, Larson and McKissick. Noes: Council Members Blyth, Burnette, Edwards, Stith and Wagstaff. Absent: None.

#### **Resolution #8780**

##### **f. Re-inspection Fees for Minimum Housing Code Inspections**

Mayor Tennyson noted there was a revised ordinance pertaining to this item.

**MOTION** by Council Member Larson seconded by Mayor Pro Tempore Clement to adopt "An Ordinance Adding Subsection (R)(7) to Section 6-158 of the Durham City Code Pertaining to Violations of the Minimum Housing Code" as amended was approved at 11:04 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

#### **Ordinance #12322**

##### **g. Fire Inspection and Permit Fees**

**MOTION** by Council Member Larson seconded by Council Member Cheek to adopt "An Ordinance Rewriting Subsections (a) and (b) of Section 9-27 of Article I, Chapter 9 of the Durham City Code Pertaining to Fire Inspection and Permit Fees" as amended was approved at 11:04 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

#### **Ordinance #12323**

##### **h. City-County Planning Fees**

Dick Hails, of the City/County Planning Department, briefed Council on a correction relative to Section G of Fee Handout (Land Use Plan Amendment Fee) noting it should read \$1,500 plus

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surcharge instead of \$1,000 plus surcharge. Also, he distributed an handout relating to an option of possible 100% cost recovery on planning and development fees.

**MOTION** by Council Member Cheek seconded by Council Member Edwards to adopt a "Resolution Amending Resolution #8677 Establishing Fees for the Planning Department Development Reviews, Public Hearing Considerations and Copying Services" as amended was approved at 11:06 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

## **Resolution #8782**

### **i. Non-City Agency Contracts**

To reaffirm the City Council Policy on the use of Non-City Agency funds; and

To authorize the City Manager to execute Non-City Agency contracts, as recommended; and

To authorize the City Manager to make amendments to the Non-City Agency Contracts that do not increase the contract sum.

City Manager Marcia Conner recognized Greg Bethea for an update on this item.

Greg Bethea, Assistant City Manager, briefed Council on the June 15, 2001 memo distributed concerning Non-City Agency Information highlighting the chart that includes the non-city agencies that have requested funding for FY 2001-02, the agency's past performance, reporting compliance and organizational capacity to carry out the services proposed for next year, etc. Also, he commented on the questions raised concerning some of the non-city agencies that have been recommended for funding: Hayti Development Corporation, Dispute Settlement Center, TROSA, El Centro Hispano, Edgemont Community Center, Rites of Passage Programs, and those agencies not recommended for funding: The Scrap Exchange and the Historic Preservation Society, Communities in School and the New Aggressive Church of Deliverance.

Relative to Hayti Development Corporation (HDC), the administration has recommended that they work closely with HDC to jointly hire a project manager and that funds [\$63,000] for HDC will be held in reserve pending the workplan. Also, the administration noted there has been a recent reorganization of the Dispute Settlement Center, and there is no longer an office in Durham for this agency and the previous staff is no longer available. Staff recommended that funds [\$12,000] for these mediation services be reserved as they seek other vendors who can provide this service.

Council Member Wagstaff spoke in opposition to funding for El Centro Hispano because of the duplication of services that already

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exists with the City and funding for Hayti Development Corporation due to their inadequate delivery of services and capacity to complete project.

City Manager Marcia Conner gave an overview of staff's recommendation of a mentor protégé program for HDC to help them build capacity.

Bridgette Rasberry, representing Hayti Development Corporation, spoke in support of the administration's recommendation.

Council Member Hill spoke in opposition to the administration's recommendation regarding Hayti due to their performance.

Council Member Langley spoke in opposition to funding El Centro Hispano.

Several Council Members spoke in support of funding El Centro Hispano and the administration's recommendation for Hayti Development Corporation.

**MOTION** by Council Member Langley seconded by Council Member Larson to reaffirm the City Council Policy on the use of Non-City Agency funds as outlined below; and

To authorize the City Manager to execute Non-City Agency contracts as listed below with the exception of El Centro Hispano and Hayti Development Corporation; and

To authorize the City Manager to make amendments to the Non-City Agency Contracts that do not increase the contract sum was approved at 11:51 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick and Stith. Noes: Council Member Wagstaff. Absent: None.

**Recommendations for Changes in Non-City Agency Funding  
(Approved City Council on February 5, 1995)**

The Non-City Agency Subcommittee of the Durham City Council is proposing the following recommendations regarding funding of non-profit agencies.

The City of Durham in fulfilling its mission and goals will contract with non-profit agencies to deliver services to the people of Durham. Funding contracts with these agencies are made dependent on whether the non-profit is fulfilling an objective of the City and the agency can demonstrate organizational capacity to deliver services more advantageously than the City. While minimum levels of funding for non-city agencies will be set by the Council, City Departments are encouraged to contract for additional services with non-profit agencies, if services can be delivered better, more cost effectively and with greater accountability to those served.

In restructuring how these agencies are funded, all applicants

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will be reviewed for organizational strength and performance by departments responsible for the program area. The category of non-city agency will be eliminated as a consideration of the Council in the budget process. Recommendations on contracting with agencies will come from departments as part of their departmental requests. Organizations seeking contracts with the City of Durham will be evaluated on the following criteria.

**Fulfilling City Objectives**

Does the organization propose to provide services that have been identified as fulfilling the goals of the City of Durham? Are the services provided achieving departmental work objectives?

**Cost and Quality Assessment**

Is the agency able to provide the service more cost efficiently and with higher quality of service than the City of Durham? Specifically, what is the cost of delivering the promised services? What resources are leveraged to carry out these services?

**Organizational Capacity**

In awarding contracts, organizations will be evaluated for ability to deliver services.

- a) Qualifications of staff and board in delivering services.
- b) Financial management procedures are established and being followed.
- c) Compliance with legal requirements of a non-profit 501c3.
- d) Demonstrated history and capacity to deliver services.

**Organizational Performance**

Organizations should be evaluated for performance on delivery of services once contract is signed.

- a) On a quarterly basis, contract agencies will give a progress report on fulfilling contract to the responsible administrative department.
- b) Organizations will be evaluated for the quality of the services delivered by the constituency served.

**NON-CITY AGENCY CONTRACTS**

Community Penalties - \$23,722  
Crime Stoppers - \$30,000  
Durham PROUD Program - \$20,000  
Rape Crisis & Arise - \$25,000  
TROSA - \$25,000  
ARC of Durham - \$12,000  
Calvary Ministries - \$28,000  
Downtown Durham, Inc. - \$138,388  
Durham Affordable Housing - \$80,000  
Durham Business & Professional Chain - \$12,000  
Durham Business & Professional Chain Rites of Passage - \$12,000  
Durham Striders - \$40,000  
Edgemont Community Center - \$22,500  
Good Work - \$22,000  
Project Graduation - \$10,000

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Schoolhouse of Wonder - \$15,000  
SEEDS - \$7,000  
Threshold - \$8,150  
Volunteer Center of Greater Durham - \$10,000  
Westend Community Center, Inc. - \$40,950  
Excellence By Choice - \$44,800  
Sisterhood Agenda - \$5,000  
Small Business & Technology Center - \$7,000  
Community Outreach Partnership Center - \$10,000  
Rights of Passage Youth Empowerment Foundation - \$7,000  
Bridges Pointe Foundation - \$10,000

**MOTION** by Council Member Langley seconded by Council Member Larson to approve funding for El Centro Hispano in the amount of \$37,000 was approved at 11:51 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick and Stith. Noes: Council Members Langley and Wagstaff. Absent: None.

**MOTION** by Council Member Langley seconded by Council Member Larson to approve the City Manager's recommendation for Hayti Development Corporation (administration will work closely with HDC to jointly hire a project manager, funds [\$63,000] for HDC will be held in reserve) was approved at 11:52 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Jacobs, Langley, Larson, McKissick and Stith. Noes: Council Members Hill and Wagstaff. Absent: None.

**Note: Staff recommended that funds [\$12,000] for the Dispute Settlement Center for mediation services be reserved.**

**j. Final Approval of Arts and Culture Non-City Agency Contracts**

**MOTION** by Council Member Larson seconded by Council Member Jacobs to authorize the City Manager to execute Arts and Culture Non-City Agency Contracts as recommended; and

To authorize the City Manager to make amendments to the Arts and Culture Non-City Agency Contracts that do not increase the contract sum was approved at 11:52 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**k. Compensation and Classification Plan Recommendations**

**MOTION** by Council Member Larson seconded by Council Member Cheek to approve adjustments to the Compensation and Classification Plan was approved at 11:53 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**1. Capital and Grant Project Ordinances**

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**MOTION** by Council Member Larson seconded by Council Member Jacobs to adopt the "City of Durham General Capital Improvements Projects Ordinance Fiscal Year 2002";

**Ordinance #12324**

To adopt the "City of Durham Water and Wastewater Capital Improvements Projects Ordinance Fiscal Year 2002";

**Ordinance #12325**

To adopt the "City of Durham Grant Project Ordinance U.S. Department of Housing and Urban Development Economic Development Initiative - FY 2002";

**Ordinance #12326**

To adopt the "City of Durham Grant Project Ordinance FY 2001-2002 Transit Section 9 Capital Grant";

**Ordinance #12327**

To adopt the "City of Durham Grant Project Ordinance FY 2000-2001 Transit Planning Grants";

**Ordinance #12328**

To adopt the "City of Durham and North Carolina Department of Transportation Section 104(f) and Section 133(b) (3) (7) Transportation Planning Grant Project Ordinance - FY 2001-2002";

**Ordinance #12329**

To adopt the "City of Durham Grant Project Ordinance Superseding Ordinance #12004 Community Development Block Grant FY 2000-2001";

**Ordinance #12330**

To adopt the "City of Grant Project Ordinance Community Development Block Grant 2001-2002";

**Ordinance #12331**

To adopt the "City of Durham Grant Project Ordinance Home Consortium Program FY 2001-2002";

**Ordinance #12332**

To adopt the "City of Durham Grant Project Ordinance Superseding Ordinance #12005 HOME Consortium Program FY 2000-2001";

**Ordinance #12333**

To adopt the "City of Durham Employment and Training Project Ordinance July 1, 2001 Until All Funds are Expended";

**Ordinance #12334**

To adopt the "City of Durham Employment and Training Grant Project Ordinance for Federal Grant July 1, 2001 - June 30, 2003" was approved at 11:53 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**Ordinance #12335**

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**m. 2001-02 City of Durham Budget Ordinance**

To adopt the "2001-02 City of Durham Budget Ordinance."

Nick Curtis, Budget & Management Services Administrator, informed Council that if changes are made to the budget they would need to revise the figures.

**[DOWNTOWN DEVELOPMENT FUND]**

Council Member McKissick made comments about monies [\$983,365] committed for the American Tobacco and Parrish Street projects last year.

City Manager Marcia Conner noted that of the \$983,365, they have expended \$140,000 which leaves a balance of \$843,000 and a reserve for Parrish Street which leaves a balance of \$643,365. Also, City Manager Marcia Conner stated last year Council moved forward with focus on downtown and she is very concerned if Council takes any of this funding out at this time it would be very difficult to come up with that amount of money to offer as incentive projects for any project to come downtown. She recommended to Council that these funds be maintained in the budget.

Council Member McKissick expressed a concern about adding \$1.2 million to the downtown development fund.

A motion was made by Mayor Pro Tempore Clement seconded by Council Member Cheek to maintain the downtown development fund as currently in the budget [as retained for 2001 and budgeted for 2002]

**SUBSTITUTE MOTION** was made by Council Member McKissick seconded by Council Member Blyth to remove \$1,185,579 from the current budget which has been set aside for downtown revitalization fund and make it available for further allocation **FAILED** at 12:03 a. m. by the following vote: Ayes: Council Members Blyth, McKissick and Wagstaff. Noes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson and Stith. Absent: None.

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Cheek to maintain the downtown development fund as currently in the budget [as retained for 2001 and budgeted for 2002] was approved at 12:04 a.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson and Stith. Noes: Council Members Blyth, McKissick and Wagstaff. Absent: None.

**[COMPENSATION FOR CITY EMPLOYEES]**

A motion was made by Council Member Cheek seconded by Mayor Pro Tempore Clement to adjust employees' compensation by 2-2-3 with \$200,000 returned to the maintenance initiative and the remaining to fund balance.

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A substitute motion was made by Council Member McKissick seconded by Council Member Blyth to adjust employee's compensation by 2-2-4 as recommended by the City Manager.

**SUBSTITUTE MOTION TO THE SUBSTITUTE** was made by Council Member Stith seconded by Council Member Jacobs to adjust employees' compensation by 2-2-3 and the remaining savings returned to fund balance **FAILED** at 12:12 a.m. by the following vote: Ayes: Council Members Jacobs and Stith. Noes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Langley, Larson, McKissick and Wagstaff. Absent: None.

**SUBSTITUTE MOTION** by Council Member McKissick seconded by Council Member Blyth to adjust employees' compensation by 2-2-4 as recommended by the City Manager was approved at 12:13 a.m. by the following vote: Ayes: Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Edwards, Langley, McKissick and Wagstaff. Noes: Mayor Tennyson and Council Members Cheek, Hill, Jacobs, Larson and Stith. Absent: None.

**At this time during the meeting, City Manager Marcia Conner noted what renovations could and could not be done at the Durham Athletic Ballpark.**

**[FIREFIGHTERS]**

A motion was made by Mayor Pro Tempore Clement seconded by Council Member Stith to reduce firefighters in the budget from 18 to 9 and the remaining savings would go to fund balance.

**SUBSTITUTE MOTION** by Council Member Larson seconded by Council Member Cheek to maintain 18 additional firefighters as recommended by the Finance Committee was approved at 12:20 a.m. by the following vote: Ayes: Mayor Tennyson and Council Members Blyth, Burnette, Cheek, Edwards, Jacobs, Langley, Larson, McKissick and Wagstaff. Noes: Mayor Pro Tempore Clement and Council Members Hill and Stith. Absent: None.

**[DOWNTOWN DEVELOPMENT FUND]**

**MOTION** by Council Member Blyth seconded by Council Member McKissick to transfer \$200,000 from the downtown revitalization fund back into the maintenance initiative for Durham Athletic Park **FAILED** at 12:21 a.m. by the following vote: Ayes: Council Members Blyth, Edwards, McKissick and Wagstaff. Noes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Burnette, Cheek, Hill, Jacobs, Langley, Larson and Stith. Absent: None.

**[FAYETTEVILLE STREET - ADDITIONAL POLICE OFFICER]**

A motion was made by Council Member Hill to delete \$76,000 for a police officer position and equipment and to return funds back to fund balance. The motion dies for a lack of a second.

**[PUBLIC AFFAIRS CALENDAR]**



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**MOTION** by Council Member Hill seconded by Council Member Cheek to delete \$46,000 for the Public Affairs Calendar and to return funds back to fund balance **FAILED** at 12:26 a.m. by the following vote: Ayes: Council Members Cheek, Hill, Stith and Wagstaff. Noes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Edwards, Jacobs, Langley, Larson and McKissick. Absent: None.

**[MANAGED COMPETITION/GAIN SHARING]**

**MOTION** by Council Member Stith seconded by Mayor Pro Tempore Clement to direct the City Manager to form a Managed Competition/Gain Sharing Committee to review the feasibility of programs for the City of Durham and if viable, develop an implementation plan for adoption by Council [initial report should be made within 60 days] was approved at 12:27 a.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

Nick Curtis, Budget & Management Services Administrator, reported there were no changes and will provide the City Clerk with a corrected ordinance.

**MOTION** by Council Member Larson seconded by Council Member Blyth to adopt the "2001-02 City of Durham Budget Ordinance" was approved at 12:31 a.m. by the following vote: Ayes: Mayor Tennyson, and Council Members Burnette, Cheek, Hill, Jacobs, Langley and Larson. Noes: Mayor Pro Tempore Clement and Council Members Blyth, Edwards, McKissick, Stith and Wagstaff. Absent: None.

**Ordinance #12336**

**n. Resolution Establishing FY 2001-02 Financial Plans for Internal Service Funds**

**MOTION** by Council Member Larson seconded by Council Member Jacobs to adopt a "Resolution Establishing FY 2001-02 Financial Plans for Internal Service Funds" was approved at 12:31 a.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**Resolution #8781**

**[MOTION TO EXCUSE COUNCIL MEMBER MCKISSICK]**

**MOTION** by Council Member McKissick seconded by Council Member Blyth to excuse Council Member McKissick from the City Council Meeting **FAILED** at 12:31 a.m. by the following vote: was approved at 7:18 p.m. by the following vote: Ayes: Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Edwards, Hill and

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McKissick. Noes: Mayor Tennyson and Council Members Cheek, Jacobs, Langley, Larson, Stith and Wagstaff. Absent: None.

**o. Durham Minimum Liveable Wage Rate**

**MOTION** by Council Member Larson seconded by Council Member Cheek to adopt a "Resolution Establishing a New Minimum Liveable Wage Rate for City of Durham Full-Time Employees" was approved at 12:33 a.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**Resolution #8783**

**p. An Ordinance Setting the Annual Base Salaries of the City Manager, City Attorney, and City Clerk**

To adopt "An Ordinance Setting the Annual Base Salaries of the City Manager, City Attorney, and City Clerk."

Mayor Tennyson noted the City Manager's salary was set recently and there would not be an increase on her base salary. The Mayor noted for clarification that the motion would be Option A [2% + 4%] for the City Clerk and City Attorney.

**MOTION** by Council Member Larson seconded by Council Member Stith to adopt "An Ordinance Setting the Annual Base Salaries of the City Manager, City Attorney, and City Clerk" as amended [Option A 2% + 4%] was approved at 12:33 a.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**Ordinance #12337**

**SUBJECT: RESOLUTION FIXING THE AMOUNT OF THE REQUIRED FILING FEES FOR CANDIDATES TO MUNICIPAL OFFICE IN THE CITY OF DURHAM**

**MOTION** by Council Member Larson seconded by Council Member Jacobs to adopt a "Resolution Fixing the Amount of the Required Filing Fees for Candidates to Municipal Office in the City of Durham" was approved at 12:33 a.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Langley, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: None.

**Resolution #8784**

There being no further business to come before the City Council, the meeting was adjourned into a closed session at 12:33 a.m.

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Linda E. Bratcher  
Deputy City Clerk

D. Ann Gray, CMC  
City Clerk